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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,876	01/24/2002	Rudi Widt	327-090	1717

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EXAMINER

ROGERS, DAVID A

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 08/06/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

10/031,876

Applicant(s)

WIDT ET AL.

Examiner

David A. Rogers

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 January 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application). ...
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1 and 2 are rejected under 35 U.S.C. 103(a) as being unpatentable over United States Patent 6,354,142 to Nothhelfer *et al.* in view of United States Patent 5,373,729 to Seigeot and United States Patent 5,182,076 to de Seroux *et al.* Nothhelfer *et al.* teaches an apparatus to test the tightness of a package (reference item 10). The apparatus comprises an upper frame (reference item 4) and a lower frame (reference item 5). Between the frames is a seal (reference item 17) (optional for the embodiment of Figure 2). Attached to the frames are upper and lower foils (reference items 2 and 3). Coupled to the interior of the two foils is a conduit (reference item 22) attached to a vacuum source. Nothhelfer *et al.* does not teach the use of a plurality of seals between the upper and lower frames where the space between the seals is evacuated independently of the space between the foils. Seigeot teaches an apparatus to test the tightness of a package (reference item 3). The apparatus comprises a cover (reference item 5) attached to a vacuum pump (reference item 11). The cover further comprises a pair of O-rings (reference items 8 and 9). The space between the O-rings is evacuated using a second vacuum pump (reference item 18) that operates independently of the first vacuum pump. In this manner the cover is effectively sealed against the belt conveyor (reference item 1). In the case of Nothhelfer *et al.*, providing two or more O-rings would have been an obvious modification, as this would provide redundant sealing means in case one of the O-rings was damaged or misaligned. It has

also been held that the duplication of parts does not necessarily distinguish over the prior art. See *In re Harza*, 274 F.2d 669, 124 USPQ 378 and *St. Regis Paper Co. v. Bemis Co., Inc.*, 193 USPQ 8, 11. Furthermore, even under extreme loads, a single O-ring can leak, as taught by de Seroux *et al.* Finally, as taught by Seigeot, the use of a vacuum helps to ensure that the cover is held tightly and, therefore, does not introduce gas into the test chamber, which would also be desirable in the case of Nothhelfer *et al.* It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Nothhelfer *et al.* with the teachings of Seigeot and de Seroux *et al.* in order to obtain a leak testing apparatus comprising two foils attached to upper and lower frame members where the members seal the interior of the foils by means of O-rings, and where the space between the O-rings is evacuated.

3. Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nothhelfer *et al.* in view of Seigeot and de Seroux *et al.* as applied to claim 1 above, and further in view of United States Patent 4,593,554 to Aarts. Nothhelfer *et al.* in view of Seigeot and de Seroux *et al.* teaches a leak testing apparatus comprising an upper frame and a lower frame with upper and lower foils. In operation, the package to be tested is placed between the foils and the air space between the foils evacuated, as seen in Figure 2 of Nothhelfer *et al.* Nothhelfer *et al.* in view of Seigeot and de Seroux *et al.* does not teach the use of a protrusion to pinch the foils together as the frame is closed. Aarts teaches that it is known to use a movable beam (reference item 5) that contacts the foil (reference item 3) in order to pinch and, therefore, seal the foil so that its inner space (reference item 2) can be evacuated. The beam, as seen in Figure 1, is a unitary protrusion with a circumferential rim. Applying the teachings of Aarts to the device of Nothhelfer *et al.* in view of Seigeot and de Seroux *et al.* would have been an obvious

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modification as the pinching means further ensures that the space in the foil is adequately sealed from the external environment. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Nothhelfer *et al.* in view of Seigeot and de Seroux *et al.* with the teachings of Aarts in order to provide a protrusion that pinches the foils of a leak testing apparatus in order to ensure that the inner space is adequately sealed from the external environment.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David A. Rogers whose telephone number is (703) 305-4451. The examiner can normally be reached on Monday - Friday (0730 - 1600).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron E. Williams can be reached on (703) 305-4705. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 872-9319 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-3431.

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July 25, 2003


HEZRON WILLIAMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800